

YNCHAUSTI & CO., PETITIONER, VS. JOHN S. STANLEY, COLLECTOR OF CUSTOMS OF THE PHILIPPINE ISLANDS, RESPONDENT.

G.R. No. 12330. January 25, 1917

Ponente: MORELAND, J.

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MORELAND, J.:

This is an action begun under section 226 of the Code of Civil Procedure requiring, on proper representation, the interference of the court when any person, whether exercising functions judicial or ministerial, was without or in excess of the jurisdiction of such person to intervene and prohibit further action by such person.

The allegations of the complaint are to the effect that the Insular Collector of Customs has ordered that the coast wise vessels of the plaintiff company shall carry, as one of the officers on each vessel, a third mate, whereas the law of the Philippine Islands requires as officers of such vessel only one master, one first mate and one second mate. The complaint charges that the requirement by the Insular Collector of Customs of a third mate is in violation of law, is in excess of his power and authority, and is an unlawful invasion of the rights of the plaintiff.

The question to be determined arises from an alleged conflict of statutes. Act No. 2614, passed on the 4th day of February, 1916, amended section 19 of Act No. 2507 by substitution, substantially, in its place of a new article which specifically determines the number of watch and engine-room officers to be carried on Philippine vessels. This section [10] of Act No. 2614, so far as material to this litigation, is as follows:

"Sec. 19. Every vessel registered in the Philippine Islands shall have the following officers:

* * * * *

"(b) Every steam vessel of five hundred gross tons, but less than fifteen hundred, shall have the following officers: One master, one first mate, and one second mate."

On the 24th of February, 1916, the Legislature passed Act No. 2657, known as the Administrative Code of the Philippine Islands, paragraph (e) of section 1312 of which reads as follows:

"The general duties, powers, and jurisdiction of the Bureau of Customs shall include:

* * * * *

"(e) The fixing of the number and classes of marine officers to be carried on Philippine vessels and the licensing of such officers; * * *"

It is contended by the defendant that the section of the Administrative Code quoted repeals all prior laws on the subject and gives to the Insular Collector of Customs the right to determine, in accordance with the dictates of his judgment and discretion, the number and class of officers which Philippine vessels shall carry.

The plaintiff contends on the other hand that the section of the Administrative Code referred to does not repeal the

provision of Act No. 2614, amending Act No. 2507, or Act No. 2507, for the reason that, apart from the fact that said Acts are not specifically repealed by the Administrative Code, they are specific and go into detail with regard to the management of Philippine vessels while engaged in Philippine trade, whereas the section of the Administrative Code is general in its terms and does nothing more than confer the authority the exercise of which is controlled in detail by the Acts.

We are inclined to take the view of the plaintiff in this matter. In the first place, there is no express repeal of Act No. 2614 or Act No. 2507. The Administrative Code contains the following provision: "The Acts and parts of Acts enumerated in the following schedule are hereby repealed.:" Then follows a long list of the Acts which the Administrative Code repeals in their entirety. Following this list is another of "Acts repealed in part." In neither of these lists do we find Act No. 2614 or Act No. 2507. Immediately succeeding the list of Acts repealed in part is found a "Table of Sources and References." This table gives the sources from which the various sections of the Administrative Code were derived. Among these Acts Nos. 2614 and 2507 are not found. It, therefore, appears that there was no specific intention to repeal either of those Acts.

In the second place, it is to be noted that there is no general clause in the Administrative Code, such as is usually found in statutes, which repeals all Acts and parts of Acts inconsistent therewith.

In the third place, Act No. 2614, as we have seen, was passed on the 4th day of February, 1916, while the Administrative Code was passed on the 24th of the same month—less than three weeks after the passage of Act No. 2614. It would not seem that the Legislature, having passed an Act of great importance, of wide extent and effect, minute in detail, which was intended to cover and did cover to the last degree the care and handling of the vessels navigating the waters of the Philippine Islands, could have intended to repeal that Act within less than three weeks after its passage and substitute in its place absolutely nothing except the uncontrolled judgment of the Insular Collector of Customs.

It being clear that the Legislature did not expressly repeal Act No. 2614, and did not, accordingly, have a definite and fixed purpose to do so, that Act will be considered repealed only in case there is such a conflict between it and section 1312 (e) of the Administrative Code that they can- not stand together.

We are of the opinion that there is no necessary conflict between them. The Administrative Code grants general authority to the Insular Collector of Customs; while Act No. 2614 specifies in detail the manner in which that general authority shall be exercised and the subject-matter to which it shall be directed. There is no necessary conflict between a statute which confers authority and another which specifies how that authority shall be exercised and on what occasion. But it is contended that there is a necessary conflict between a statute authorizing a particular official to fix "the number and classes of marine officers to be carried on Philippine vessels" and one which itself fixes the number and classes of marine officers to be carried on Philippine vessels. The question is asked: Why give the Insular Collector of Customs authority to fix the number if some prior statute has already fixed it? And, it is urged that the power conferred by one statute to fix the number is destroyed or rendered innocuous by another statute which already fixes the number. The necessary result, it is contended, is that there is a conflict between the two statutes. This argument has force when the question is considered in one aspect only. Even though Act No. 2614 fixed the number of marine officers to be carried on Philippine vessels, there remained the necessity of conferring upon some official the power to enforce compliance with the Act. If no officer was empowered to see to the enforcement of the Act, the initiative in complying therewith would be left entirely to the owners of the vessels themselves. While there would have been a law on the subject, compliance therewith would have been left, in the first instance, to the owners of the vessels. It has always been considered advisable, if not necessary to place the responsibility of requiring compliance with statutes, such as Acts Nos. 2614 and 2507, upon some governmental official whose duty it should be to make rules and regulations adapted to securing

compliance with them, to inspect and determine whether there was compliance, and to take such steps as might be necessary to secure compliance. It is precisely here that the authority conferred upon the Insular Collector of Customs by the Administrative Code operates. The authority conferred has more the nature of administration than of creation; and was designed to be exercised not before or in place of Acts Nos. 2507 and 2614, but after those Acts became effective and under and in compliance with their provisions. There would have been a real conflict if the prior statute had conferred the authority to fix the number and class of officers to be carried on vessels, say, on the Board of Public Utility Commissioners, and the Administrative Code had later conferred the same authority on the Insular Collector of Customs. If authority is conferred on an official to do a certain act, it is always understood that he shall perform the act authorized in conformity with the law as it stands when he performs it. Thus, where he is authorized to fix the number and class of officers to be carried by one ship, he shall fix them in accordance with law, if there is a law on the subject. If there is no law, he shall use his judgment and discretion. If this is true, Act No. 2614 and section 1312 (e) of the Administrative Code can stand together, as the latter simply authorizes the Insular Collector of Customs to fix the number and class of officers in accordance with law. If neither one of the prior acts had ever been passed, that necessity would, nevertheless, exist. The authority to fix and the authority to fix in accordance with law are the same; and, being the same, there can be no such conflict between them as would result in the destruction of either.

Moreover, the authority to fix the number of officers to be carried on ships is not necessarily authority to fix a given number or such number as the official receiving the authority may consider the proper number. It is simply authority to fix a reasonable number; and a subsequent statute fixing the precise number would not be in conflict with the prior statute conferring the general authority to fix the number. The official would still have the authority to fix but he would exercise that authority in accordance with the last statute.

Furthermore, in spite of Act No. 2614, the Insular Collector of Customs has authority to fix the number and class of officers on coast wise vessels in one sense at least. Under Act No. 2614 not all vessels shall be provided with the same number and class of officers. Under section 1312 (e) of the Administrative Code, the Insular Collector of Customs has the authority and power to determine the number and class of officers which a particular vessel will carry. It is his duty to determine, in the first place, the character and tonnage of the vessel; in the second place, the number and classes of officers which the vessel shall carry; and, in the third place, to order the owner of the vessel to comply with his determination. There must be some one to determine the question of fact as to the kind and tonnage of the vessel; and there must be some one who, after the number and classes are determined, shall, upon the facts, fix the number and class of officers and give notice thereof to the owner of the vessel.

Thus, in a real sense, the Insular Collector of Customs may exercise the authority conferred upon him by section 1312 (e) of the Administrative Code without coming into conflict with the provisions of Act No. 2614. We have no doubt that the Code Committee knew of the existence of Act No. 2614 and of Act No. 2507 at the time they presented the Administrative Code to the Legislature for its consideration; and it is undoubtedly true that, if the Code Committee had believed that there was a real repugnancy between those Acts and any provision of the Administrative Code, the Committee would have cured it. The same may be said of the Legislature. The fact that Act No. 2614 was so fresh in the mind of the Legislature and was well known to the Code Committee, is strong evidence of the belief of both that there was no real conflict between them.

Act No. 2614 and the Administrative Code may, then, stand together upon the theory that the Administrative Code simply appointed a given official to carry out the provisions of Act No. 2614, the authority conferred by the Administrative Code being simply the necessary authorization of a particular official so to do.

And finally, subsequent Acts of the Legislature disclose conclusively that it was not the understanding of that body that the Administrative Code contained all of the administrative laws which were thereafter to be considered

in force in the Philippine Islands. The Legislature on the 27th of March, a month after the enactment of the Administrative Code, passed Act No. 2662 which expressly extends the provision of Act No. 2614 to non-Christian territory. It seems clear, therefore, that on the 27th of March, the Legislature was of the opinion that Act No. 2614 was still in force in its entirety.

There are other laws which deal more or less with administrative affairs which are considered by common consent as still in force notwithstanding the passage of the Administrative Code. Among them are the Act creating the Board of Public Utility Commissioners, the Sugar Central Board, the Blue-sky laws, the Public Land Act, the Irrigation Acts, and others.

It being admitted that the finding of the Insular Collector of Customs as to the tonnage and other circumstances of the vessel dealt with in this case is correct, the Collector had no authority to order placed on the vessel more or a different class of officers than the statute provides for.

The demurrer is overruled and the defendant given leave to answer within five days from the service of notice of the entry of this order. If an answer is not filed within that time the plaintiff will, on application, be entitled to a judgment for the relief demanded in the complaint. So ordered.

Arellano, C. J., Torres, and Araullo, JJ., concur.

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